IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 23RD AUGUST 2007 / 1ST BHADRA 1929

WP(C).No. 25853 of 2007(C)

PETITIONER:

LEELAVATHI, W/O. RAGHU,
KALADIPARAMBIL HOUSE, KIZHAKKE CHALAKKUDY,
TRISSUR DISTRICT.

BY ADV. SRI.S.SREEKUMAR
SRI.P.MARTIN JOSE

RESPONDENTS:

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1. THE ADDITIONAL TAHASILDAR,
MUKUNDAPURAM TALUK,IRINGALAKUDA.

2. THE COMMISSIONER OF LAND REVENUE,
THIRUVANANTHAPURAM.

3. STATE OF KERALA,REPRESENTED BY THE
SECRETARY,REVENUE DEPARTMENT.

BY GOVERNMENT PLEADER SRI. I.V. PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)NO.25853 OF 2007

DATED THIS THE 23rd DAY OF AUGUST, 2007

JUDGMENT

The petitioner challenges Ext.P7 notice directing the petitioner to vacate the properties mentioned therein within fifteen days. The petitioner submit that no measurement has been conducted to decide unauhtorised occupation and the petitioner was not also afforded an opportunity of being heard.

2. I have heard the learned Government pleader also. The learned Government pleader could not satisfy me that the impugned notice has been preceded by any notice or hearing. The same also do not contain any reason as to why the emergency provisions should be invoked as per the Kerala Land Conservancy Act. That being so, it is clear that the impugned notice has been issued in violation of the principles of natural justice. However, if the impugned notice is treated as a show cause notice, the same need not be quashed. Therefore, the writ petition is disposed of with the following directions.

The 1st respondent shall treat impugned notice as show cause notice. The petitioner shall file her objections to the same within two weeks from today. The 1st respondent shall afford an opportunity of

being heard to the petitioner which shall include the opportunity to adduce evidence also. Thereafter the 1st respondent shall pass a speaking order meeting the contentions of the petitioner. The petitioner shall not be evicted from the property in question until the orders passed as above are communicated to the petitioner.

S. SIRI JAGAN, JUDGE

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S. SIRI JAGAN, JUDGE

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